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### FACSIMILE TRANSMISSION COVER SHEET

Date: October 28, 2005

To: USPTO/Mail Stop PCT  
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Fax # 571-273-0459

From: Kim Brantley/Paralegal

Recipient's Direct Dial #

Sender's Direct Fax # 404-572-6999

Sender's e-mail address: [kbrantley@pogolaw.com](mailto:kbrantley@pogolaw.com)

Sender's Direct Dial # 404-572-6805

Our File # 20605.016US

Attorney # 3432

Total Pages (Including This Page): 12

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**COMMENTS:** Please note all attachments as identified below

- 1—SB21 (1 pg)
- 2—SB22 (in duplicate) (2pgs)
- 3—declaration (4 pgs)
- 4—Renewed Submission Under 37 CFR 1.42 (2pgs)
- 5—copy of Decision "refusal to enter declaration" for reference only (2 pgs)

*Legal Examiner for this declaration/Decision is Rafael Bacares.*

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PTO/SB/21 (09-04)

Approved for use through 07/31/2006, OMB 0851-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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<h1>TRANSMITTAL FORM</h1> <p>(to be used for all correspondence after initial filing)</p>		Application Number	10/509561
		Filing Date	September 27, 2004
		First Named Inventor	Heinz Focke
		Art Unit	
		Examiner Name	
Total Number of Pages in This Submission	11	Attorney Docket Number	20605.016US

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Attached are SB21, SB22, and Renewed Submission Under 37 CFR 1.42
Remarks Please direct any questions to the attorney of record, Laurence P. Colton at 404-572-6710.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	POWELL GOLDSTEIN LLP		
Signature			
Printed name	Laurence P. Colton		
Date	October 28, 2005	Reg. No.	33, 371

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the			
Signature			
Typed or printed name	Kim Brantley	Date	October 28, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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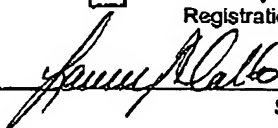
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<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)</b>		Docket Number (Optional)
<b>FY 2005</b>		20605.016US
(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)		
Application Number 10/509561		Filed September 27, 2005
For CIGARETTE PACK COMPRISING A SLIDE AND CASE		
Art Unit		Examiner
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.		
The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):		
	<u>Fee</u>	<u>Small Entity Fee</u>
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225
<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. <input type="checkbox"/> A check in the amount of the fee is enclosed. <input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached. <input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account. <input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>501429</u> . I have enclosed a duplicate copy of this sheet.		
<b>WARNING:</b> Information on this form may become public. Credit card information should not be included on this form.		
I am the <input type="checkbox"/> applicant/inventor <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96). <input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>33,371</u> <input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR _____		
 Signature Laurence P. Colton Typed or printed name		October 28, 2005 Date 404-572-6710 Telephone Number
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.		
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.		

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Patent  
Customer No.: 25207  
Docket No.: 20605.016US

**UNITED STATES PATENT AND TRADEMARK OFFICE  
PATENT OPERATIONS**

Applicant: Heinz Focke et al.

Application No.: 10/509,561

International Filing Date: April 11, 2003

Title: CIGARETTE PACK  
COMPRISING A SLIDE AND  
CASE]

Art Unit:

Examiner: Rafael Bacares

**RENEWED SUBMISSION UNDER 37 CFR 1.42**

Via Fax: +1.571.273.0459

October 28, 2005

Mail Stop PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Request Under 37 CFR 1.42 from June 8, 2005, please accept the newly executed inventor's declaration as attached. A copy of the Decision is enclosed for your reference. All requirements have been met on the new declaration and satisfy 37 CFR 1.497. Specifically, the decision now includes the following items:

1. Statement included regarding sole heirs

I certify that I have transmitted this document via facsimile to the United States Patent and Trademark Office (USPTO) to the central facsimile receiving number of +1.571.273.8300, this 28<sup>th</sup> day of October, 2005.

Kim Brantley

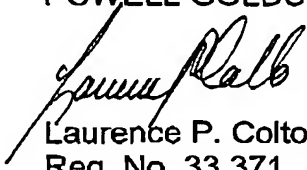
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2. Relationship of signatory identified
3. Inventor's and Legal Representative's citizenship identified
4. Inventor's and Legal Representative's postal address

### CONCLUSION

Applicant is now compliant with CFR 1.497 and 1.42. As such, applicant respectfully requests the declaration be entered.

Respectfully submitted,  
POWELL GOLDSTEIN LLP



Laurence P. Colton  
Reg. No. 33,371

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08 JUN 2005



## UNITED STATES PATENT and TRADEMARK OFFICE

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Laurence P. Colton  
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Atlanta GA 31156-7685 US

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In re Application of  
FOCKE et al  
PCT No.: PCT/EP03/03754  
Application No.: 10/509,561  
Int. Filing Date: 11 April 2002  
Priority Date: 25 April 2002  
Attorney's Docket No.: 20605.016US  
For: CIGARETTE PACK COMPRISING  
A SLIDE AND CASE

: DECISION ON  
:  
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: PAPERS FILED  
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: UNDER 37 CFR 1.42  
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This is a decision on the declaration filed 27 September 2004, which has been treated as a request for status under 37 CFR 1.42.

**BACKGROUND**

On 27 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration signed by Doris FOCKE and Jurgen FORKE as heirs to deceased inventor Heinz FOCKE.

**DISCUSSION**

The declaration is unacceptable because the declaration does not state that Doris FOCKE and Jurgen FORKE are all the heirs for the deceased inventor or the legal representatives for the deceased inventor, Heinz FOCKE. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that Doris FOCKE and Jurgen FORKE are all heirs for the deceased inventor or are the legal representatives for the deceased inventor, Heinz FOCKE, to accept the application under 37 CFR 1.42. A statement by Doris or Jurgen or their attorney which sets forth that they are in fact all the heirs of the deceased inventor if there are no other heirs.

In addition, the declaration did not satisfy 37 CFR §1.497(b)(2) because it did not state the citizenship, residence, and mailing address of the all the heirs and the deceased inventor.

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Application No.: 10/509,561

2


Moreover, a submission of a declaration executed by all of the heirs of the deceased inventor is construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicants are required to promptly notify the Office of such and submit a declaration properly executed by the legal representative(s) of the deceased inventor.

### CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is not accepted.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.

  
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